

# TITLE 329 SOLID WASTE MANAGEMENT BOARD

## PROPOSED RULE AS PRELIMINARILY ADOPTED WITH IDEM'S SUGGESTED CHANGES

LSA Document #00-173

### DIGEST

Amends 329 IAC 7-2-6, 329 IAC 7-11-1, 329 IAC 7-11-2, 329 IAC 7-11-3 with a new maximum score of 10 to be eligible for deletion from the Commissioner's Bulletin and adds designations that can be attained for consideration for deletion. Senate Enrolled Act 360-1997 required rules be adopted by the solid waste management board to amend 329 IAC 7 concerning the Indiana Scoring Model and assessment of hazardous substance response sites and determine a maximum score to allow sites that either have been the subject of a successful remediation or score at or below the maximum score to be removed from the priority ranking if appropriate. A procedure for deleting a listed site from the priority ranking and a maximum score was established by LSA #98-110(F), which was effective November 27, 1998. A maximum score of 5 was established. The procedures allowed for either a party to petition for deletion or for the agency to initiate deletion of a site. After consideration of all sites on the list, it was determined by the agency that this maximum score is inadequate to appropriately delete all the sites that have been the subject of a successful remediation. There are sites that pose no significant risk to human health or the environment but still accrue a score greater than 5. The department would like to again examine the maximum score for a site to be removed from the priority ranking and, in addition, the department would also like to consider criteria or other approvals (designations) to be applied to a remediated site to determine appropriateness for that site to be deleted from the list. The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at 329 IAC 7 concerning the Indiana Scoring Model and the assessment of hazardous substance response sites. Effective thirty (30) days after filing with the secretary of state.

### HISTORY

First Notice of Comment Period: September 1, 2000, Indiana Register (23 IR 3220).

Second Notice of Comment Period and Notice of First Hearing: January 1, 2001, Indiana Register (24 IR 1179).

Date of First Hearing: April 17, 2001.

Proposed Rule and Notice of Second Hearing: June 1, 2001, Indiana Register (24 IR 2802).

Date of Second Hearing: August 21, 2001.

329 IAC 7-2-6

329 IAC 7-11-1

329 IAC 7-11-2

329 IAC 7-11-3

SECTION 1. 329 IAC 7-2-6 IS AMENDED TO READ AS FOLLOWS:

### 329 IAC 7-2-6 Assessment of hazardous substance response sites

Authority: IC 13-14-8; IC 13-14-9; IC 13-19-3; IC 13-25-4-7

Affected: IC 13-22-2

Sec. 6. ~~Sites that receive a score of five (5) or less~~ A site may be deleted from the commissioner's bulletin through an agency or petition deletion procedure **if the site complies with one (1) of the following:**

**(1) Received a score of ten (10) or less.**

**(2) A comprehensive site clean-up has been completed so that the site is no longer a significant threat to human health and the environment and one of the following has been issued concerning the site:**

**(A) A letter from the department's leaking underground storage tank section that states no further action is necessary.**

**(B) A letter of determination from the department or the United States Environmental Protection Agency that states no further action is necessary for releases of hazardous wastes or hazardous constituents following investigation and remediation performed under the Resource Conservation and Recovery Act.**

**(C) A certificate of completion and a covenant not to sue from the department's voluntary remediation program section.**

**(D) A record of decision or declaration of closure from the department's state clean-up program section that states no further action is necessary.**

**(E) Designation in the United States Environmental Protection Agency's Comprehensive Environmental Response, Compensation, and Liability Act data base of "No Further Remedial Action Planned Priority Assessment".**

*(Solid Waste Management Board; 329 IAC 7-2-6; filed Oct 28, 1998, 3:26 p.m.: 22 IR 753; readoption filed Jan 10, 2001, 3:25 p.m. 24 IR 1535)*

SECTION 2. 329 IAC 7-11-1 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 7-11-1 Deletion procedure agency deletion**

**Authority:** IC 13-14-8; IC 13-14-9; IC 13-19-3; IC 13-25-4-7

**Affected:** IC 13-22-2

Sec. 1. Procedures for deleting sites from the commissioner's bulletin by agency deletion are as follows:

(1) Sites must have been evaluated using the Indiana Scoring Model and received a score of ~~five (5)~~ **ten (10)** or less **or be eligible for deletion under 329 IAC 7-2-6(2).**

(2) The commissioner shall notice the local or county health or environmental agency of the proposed agency deletion. The notice shall include the following:

(A) Name.

(B) Location.

(C) Property legal description.

(D) Current owners or operators.

(E) Property ownership.

(F) Operation history.

(G) A comprehensive summary that includes:

(i) the current site conditions; and

(ii) an explanation that these current site conditions do not pose a significant environmental concern.

(3) The commissioner shall solicit a correspondence regarding the proposed agency deletion from the:

(A) local officials;

(B) county health department; or

(C) environmental agency.

(4) The commissioner shall provide the following as necessary:

(A) Answers to any public comments received.

(B) A forum for public meetings.

(5) The commissioner will consider comments received from the:

(A) public;

(B) county commissioners;

(C) town board; or

(D) mayor's office.

(6) Forty-five (45) days after initiation of agency deletion procedures, the commissioner will notify interested parties, if the site will be deleted from the commissioner's bulletin.

*(Solid Waste Management Board; 329 IAC 7-11-1; filed Oct 28, 1998, 3:26 p.m.: 22 IR 753; readoption filed Jan 10, 2001, 3:25 p.m. 24 IR 1535)*

SECTION 3. 329 IAC 7-11-2 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 7-11-2 Deletion procedures: petition deletion**

**Authority:** IC 13-14-8; IC 13-14-9; IC 13-19-3; IC 13-25-4-7  
**Affected:** IC 13-22-2

Sec. 2. Procedures for deleting sites from the commissioner's bulletin by petition deletions are as follows:

(1) Sites must have been evaluated using the Indiana Scoring Model and received a score of ~~five (5)~~ **ten (10)** or less **or be eligible for deletion under 329 IAC 7-2-6(2)**.

(2) The commissioner must receive a petition for deleting a site from the commissioner's bulletin. The petition correspondence must include the following:

- (A) Name.
- (B) Location.
- (C) Property legal description.
- (D) Current owners or operators.
- (E) Property ownership.
- (F) Operational history records relating to the hazardous waste activities.
- (G) A comprehensive summary that includes:
  - (i) the current site conditions; and
  - (ii) an explanation that these current site conditions do not pose a significant environmental concern.
- (H) Correspondence from the:
  - (i) local officials;
  - (ii) county health department; or
  - (iii) environmental agency;delineating their position on the proposed deletion.

(3) The commissioner shall provide the following as necessary with petitioner's participation:

- (A) Public hearings.
- (B) Public meetings.
- (C) Information necessary to answer public comments.

(4) The commissioner will consider comments received from the:

- (A) public;
- (B) county commissioners;
- (C) town board; or
- (D) mayor's office.

(5) The commissioner will notify all interested parties, within forty-five (45) days after complete and adequate petition correspondence is received by the commissioner, if the site will be deleted from the commissioner's bulletin.

*(Solid Waste Management Board; 329 IAC 7-11-2; filed Oct 28, 1998, 3:26 p.m.: 22 IR 753; readoption filed Jan 10, 2001, 3:25 p.m. 24 IR 1535)*

SECTION 4. 329 IAC 7-11-4 IS AMENDED TO READ AS FOLLOWS:

### **329 IAC 7-11-3 Deletion procedures: site relisted**

**Authority:** IC 13-14-8; IC 13-14-9; IC 13-19-3; IC 13-25-4-7  
**Affected:** IC 13-22-2

Sec. 3. Sites may be deleted from the commissioner's bulletin if the site scores a score of ~~five (5)~~ **ten (10)** or less **or is eligible for deletion under 329 IAC 7-2-6(2)**. Sites that are deleted, which subsequently receive a score higher than ~~five (5)~~ **ten (10)**, ~~will~~ **may** be relisted on the commissioner's bulletin **if new information becomes available to indicate that site conditions have changed and the site warrants reevaluation**. *(Solid Waste Management Board; 329 IAC 7-11-3; filed Oct 28, 1998, 3:26 p.m.: 22 IR 754; readoption filed Jan 10, 2001, 3:25 p.m. 24 IR 1535)*